

**DISTRICT OF COLUMBIA
DOH OFFICE OF ADJUDICATION AND HEARINGS**

DISTRICT OF COLUMBIA
DEPARTMENT OF HEALTH
Petitioner,

v.

WARNER H. WASHINGTON
Respondent

Case No.: I-00-20249

FINAL ORDER

I. Introduction

This case arises under the Civil Infractions Act of 1985 (D.C. Official Code §§ 2-1801.01 *et seq.*) and Title 21 Chapter 7 of the District of Columbia Municipal Regulations (“DCMR”). By Notice of Infraction (00-20249) served February 25, 2002, the Government charged Respondent Warner H. Washington with a violation of 21 DCMR 700.3 for allegedly failing to properly store and containerize solid wastes¹ and 21 DCMR 707.11 for allegedly failing to keep his waste container in good repair.² The Notice of Infraction alleged that the violations occurred

¹ 21 DCMR 700.3 provides: “All solid wastes shall be stored and containerized for collection in a manner that will not provide food, harborage, or breeding places for insects or rodents, or create a nuisance or fire hazard.”

² 21 DCMR 707.11 provides:

Commercial waste containers shall be constructed of heavy gauge metal with tightly-fitting lids constructed of either heavy gauge plastic or metal. Waste container lids shall be kept closed at all times other than when the container is being filled or emptied. Waste container lids shall be free of large gaps, cracks or holes. The area where the waste container is stored shall be kept free of spilled waste at all times. If

on February 20, 2002 at 1120 Holbrook Terrace, N.E., and sought a fine of \$1,000 for each violation, for a total of \$2,000.

On March 11, 2002, Respondent filed a plea of Admit with Explanation pursuant to D.C. Official Code § 2-1802.02(a)(2). Respondent did not include an explanation with his plea, however. By order of this administrative court dated March 28, 2002, Respondent was permitted to file an explanation for his admitted violation within seven (7) calendar days of the order's April 1, 2002 service date. No response has been received from Respondent.

II. Findings of Fact

1. By his plea of Admit with Explanation, Respondent has admitted violating 21 DCMR 700.3 on February 20, 2002 at 1120 Holbrook Terrace, N.E.
2. On February 20, 2002, Respondent failed to properly store and containerize solid wastes at 1120 Holbrook Terrace, N.E.
3. By his plea of Admit with Explanation, Respondent has admitted violating 21 DCMR 707.11 on February 20, 2002 at 1120 Holbrook Terrace, N.E.
4. On February 20, 2002, Respondent failed to maintain his solid waste container in good repair.

the waste container is equipped with a drain plug, the plug shall be constructed of heavy duty plastic or metal and shall be kept in the drain hole until the filled container is transported to its ultimate destination for emptying and disposal of its contents.

5. By order of this administrative court dated March 28, 2002, Respondent was permitted to file an explanation for his admitted violation within seven (7) calendar days of the order's April 1, 2002 service date. No response has been received from Respondent.

III. Conclusions of Law

1. Respondent violated 21 DCMR 700.3 on February 20, 2002. A fine of \$1,000 is authorized for a first violation of this regulation which, there being no mitigating evidence in the record, I will impose without reduction.³ 16 DCMR §§ 3201.1(a)(1) and 3216.1(b).
2. Respondent violated 21 DCMR 707.11 on February 20, 2002. A fine of \$1,000 is authorized for a first violation of this regulation which, there being no mitigating evidence in the record, I will impose without reduction. 16 DCMR §§ 3201.1(a)(1) and 3216.1(i).⁴

³ The Rodent Control Act of 2000 is Title IX of the Fiscal Year 2001 Budget Support Act of 2000, effective October 19, 2000, D.C. Law 13-172. *See* 47 D.C. Reg. 8692 (November 10, 2000); 47 D.C. Reg. 6308 (August 11, 2000). Section 910(b) of that Act established new fines for violations of various rodent control measures, including § 700.3. 47 D.C. Reg. at 6339 (August 11, 2000).

⁴ Pursuant to the authority set forth in the Rodent Control Act of 2000 and other applicable authority, the Department of Health later amended Section 3216.1 of Title 16 to include a violation of 21 DCMR 707.11 as a Class 1 infraction under the Civil Infractions Act's Schedule of Fines. *See* 48 D.C. Reg. 6656 (July 27, 2001); *see also* 16 DCMR §§ 3200.1(a) and 3201.1(a).

IV. Order

Based upon the foregoing findings of fact and conclusions of law, and the entire record of this case, it is, hereby, this ____ day of _____, 2002:

ORDERED, that Respondent shall pay a fine in the total amount of **TWO THOUSAND DOLLARS (\$2,000)** in accordance with the attached instructions within twenty (20) calendar days of the date of mailing of this Order (fifteen (15) calendar days plus five (5) days for service by mail pursuant to D.C. Official Code §§ 2-1802.04 and 2-1802.05); and it is further

ORDERED, that, if Respondent fails to pay the above amount in full within twenty (20) calendar days of the date of mailing of this Order, by law, interest must accrue on the unpaid amount at the rate of 1 ½% per month or portion thereof, beginning with the date of this Order, pursuant to D.C. Official Code § 2-1802.03(i)(1); and it is further

ORDERED, that failure to comply with the attached payment instructions and to remit a payment within the time specified will authorize the imposition of additional sanctions, including the suspension of Respondent's licenses or permits pursuant to D.C. Official Code § 2-1802.03(f), the placement of a lien on real or personal property owned by Respondent pursuant to D.C. Official Code § 2-1802.03(i) and the sealing of Respondent's business premises or work sites pursuant to D.C. Official Code § 2-1801.03(b)(7).

/s/ **05/15/02**

Mark D. Poindexter
Administrative Judge